

CIVIL RIGHTS COMMISSION[161]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 3, “Complaint Process,” Iowa Administrative Code.

These amendments will facilitate public understanding of the administrative rules by revision of complex sentence structure and through modifications to style and grammar.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission’s general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code section 216.5.

The following amendments are proposed.

ITEM 1. Amend subrule 3.14(2) as follows:

3.14(2) Prior to notice of hearing. The executive director, or designee, may issue subpoenas prior to the issuance of a notice of hearing. Neither the complainant, ~~other than~~ except when the commission is acting as the complainant, nor the respondent shall have the right to demand that a subpoena be issued.

ITEM 2. Amend paragraph **3.14(8)“a”** as follows:

a. Any person ~~served with~~ who intends not to comply with all or part of a subpoena issued by the commission ~~who intends not to comply with all or part of it shall promptly, after the date of service of the subpoena upon that person,~~ petition the executive director to revoke or modify the subpoena. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached to the petition. The executive director or designee may as soon as practicable make a final determination upon the petition. The commission shall then mail the determination of the petition by regular mail to the petitioner.

ITEM 3. Amend paragraph **3.16(3)“e,”** introductory paragraph, as follows:

e. Unless the application for reopening is disposed of by summary denial, all parties shall be notified whenever an application for reopening is made. A copy of the request for reopening along with the grounds asserted in the request ~~for reopening~~ shall be provided to all respondents. The parties shall be afforded no less than 14 and no more than 30 days to submit their positions, in writing, on the motion for reopening.

ITEM 4. Amend subparagraph **3.16(5)“a”(1)** as follows:

(1) Application. A party to a settlement agreement may, within 90 days of the date respondent’s performance under the agreement was to be completed, apply for reopening of a case which has been closed as satisfactorily adjusted on the grounds that the other party has materially breached the

agreement. The commission shall not consider such an application for reopening if the commission is a party to the agreement alleged to have been breached. Also, the commission shall not consider such an application for reopening unless, as a part thereof, the party seeking the reopening agrees in writing that if the reopening is granted the agreements allegedly breached shall be null and void, and that such party waives and releases any rights to seek specific performance or damages for the alleged breach in court. If the commission finds that the agreement has been materially breached and that the respondent did not negotiate the agreement in good faith, the case shall be reopened.

ITEM 5. Amend subparagraph **3.16(5)“b”(4)** as follows:

(4) Ratification. ~~Where a party has voluntarily accepted all the benefits of an agreement, that party is barred from applying for reopening of the case on the ground that the agreement was not voluntary. A party is barred from applying for reopening of a case on the ground that the agreement was involuntary, if the party has voluntarily accepted all benefits of an agreement.~~

ITEM 6. Amend subparagraph **3.16(5)“c”(3)** as follows:

(3) Ratification. ~~Where~~ If the withdrawal is filed pursuant to a conciliation, mediation or other settlement agreement and the complainant has ratified that agreement, the complainant is barred from applying for reopening of the case on the ground that the agreement was not voluntary.

ITEM 7. Amend paragraph **3.16(9)“b”** as follows:

b. ~~Where~~ If the right-to-sue letter was issued to a complainant who had not requested it and the commission notifies the parties of this error within 90 days of the erroneous issuance, then the closure after the erroneous issuance of the right-to-sue letter will be deemed void and the case reopened.